

# Notice of Allowability

Application No.

10/723,463

Examiner

Igor Kershteyn

Applicant(s)

PHANCO ET AL.

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to \_\_\_\_\_.
2. ☒ The allowed claim(s) is/are 1-17.
3. ☒ The drawings filed on 26 November 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 03/01/2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

***Reasons for allowance***

The following is an examiner's statement of reasons for allowance:

The instant invention deemed to be directed to an unobvious improvement to a hydraulic apparatus and a method of removing air from a hydrostatic drive device over U.S. Patent No. 5,074,159 which teaches a hydrostatic transmission mounted in a first sump (not numbered), the hydrostatic transmission comprising a pump P, the pump P connected to a hydraulic circuit, a second sump (not numbered) in fluid communication with the first sump and the hydraulic circuit, a filter 5 located between the first sump and the second sump to filter liquid flowing from the first sump into the second sump.

Regarding claim 1, the improvement comprises an opening associated with the second sump to permit air to move from the second sump to the first sump.

Regarding claim 8, the improvement comprises means for venting the filter means to permit air to escape from the filter means to the sump.

Regarding claim 9, the improvement comprises means for guiding air to an opening disposed in the hydraulic circuit.

Regarding claim 15, the improvement comprises disposing a filtering device within the hydrostatic drive device, the filtering device comprising a filter housing and a filter attached thereto, biasing a poppet in an upper portion of the filtering device in an open and a closed position, allowing a fluid to pass through the filter and into the filter housing, the fluid including a liquid and air; and permitting the escape of the air from the filter housing through the opening.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Prior Art***

Prior art made of record but not relied upon is considered pertinent to Applicant's disclosure and consist of seven patents.

Okada (4,986,073) is cited to show a hydrostatic transmission mounted in a first sump, a second sump, a filter located between the first and second sump but fails to teach an air purging opening allowing air to move from the second to the first sump.

Erickson et al. (5,001,901) is cited to show a hydrostatic transmission mounted in a first sump, a second sump, a filter located between the first and second sump but fails to teach an air purging opening allowing air to move from the second to the first sump.

Johnson (5,010,733) is cited to show a hydrostatic transmission mounted in a first sump, a second sump, a filter located between the first and second sump but fails to teach an air purging opening allowing air to move from the second to the first sump.

Maesaka et al. (5,259,193) is cited to show a hydrostatic transmission mounted in a first sump, a second sump, but fails to teach a filter located between the first and second sump and an air purging opening allowing air to move from the second to the first sump.

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Havens (5,273,135) is cited to show a hydrostatic transmission mounted in a first sump, a second sump, but fails to teach a filter located between the first and second sump and an air purging opening allowing air to move from the second to the first sump.

Ohashi et al. (5,701,739) is cited to show a hydrostatic transmission mounted in a first sump, a second sump, but fails to teach a filter located between the first and second sump and an air purging opening allowing air to move from the second to the first sump.

Shimizu (5,809,845) is cited to show a hydrostatic transmission mounted in a first sump, a second sump, but fails to teach a filter located between the first and second sump and an air purging opening allowing air to move from the second to the first sump.

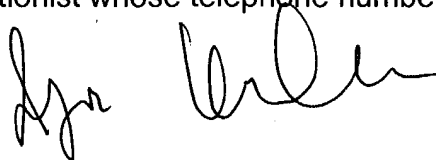
**Contact information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kershteyn whose telephone number is (703) 308 8317. The examiner can be reached on Monday-Friday from 8:00 a.m. to 4:30 p.m.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look, can be reached on (703) 308 1044. The fax number is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308 0861.

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**Igor Kershteyn**  
Patent examiner.  
Art Unit 3745



**EDWARD K. LOOK**  
SUPERVISORY PATENT EXAMINER  
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10/23/04